

# Order

Michigan Supreme Court  
Lansing, Michigan

February 3, 2012

Robert P. Young, Jr.,  
Chief Justice

143721

Michael F. Cavanagh  
Marilyn Kelly  
Stephen J. Markman  
Diane M. Hathaway  
Mary Beth Kelly  
Brian K. Zahra,  
Justices

MASON COUNTY and OCEANA COUNTY,  
Plaintiffs-Appellees,

v

SC: 143721  
COA: 295365  
Mason CC: 08-000269-CK

DEPARTMENT OF COMMUNITY HEALTH,  
DIRECTOR OF DEPARTMENT OF  
COMMUNITY HEALTH, DIRECTOR OF  
COMMUNITY MENTAL HEALTH SERVICES  
BUREAU, and DIRECTOR OF PROGRAM  
DEVELOPMENT CONSULTATIONS &  
CONTRACTS DIVISION,  
Defendants-Appellants,  
and

WEST MICHIGAN COMMUNITY MENTAL  
HEALTH SYSTEM, and RICHARD  
VANDENHEUVEL,  
Defendants-Appellees.

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On order of the Court, the application for leave to appeal the August 2, 2011 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

MARKMAN, J. (*dissenting*).

I respectfully dissent, and would grant leave to appeal. Defendant West Michigan Community Mental Health System (WCMCHS) refused to make lease payments on buildings it leased from plaintiffs Mason and Oceana Counties because the Department of Community Health (DCH), which funds WCMCHS, considered the lease agreements not to be arm's-length transactions within the meaning of an Office of Management and Budget Circular, with which a contract between WCMCHS and codefendant DCH requires compliance. The circuit court granted plaintiffs' motion for summary disposition, and in a published opinion, the Court of Appeals affirmed.

Codefendant DCH argues that the Court of Claims has exclusive jurisdiction in this case because plaintiffs' claims pertain to the state's contracts with WMCMHS and require state payments to WMCMHS. The Court of Claims has exclusive jurisdiction "[t]o hear and determine all claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state and any of its departments, commissions, boards, institutions, arms, or agencies." MCL 600.6419(1). In *Parkwood Ltd Dividend Housing Ass'n v State Housing Dev Auth*, 468 Mich 763 (2003), we held that the Court of Claims has exclusive jurisdiction over a declaratory judgment action directly involving a state contract.

In this case, the circuit court held that it had jurisdiction because the witnesses are all "local individuals." The Court of Appeals affirmed because this is a "simple breach of contract [action] between two parties . . . neither of which is a state agency," and stated:

That breach of the contract between plaintiffs and WMCMHS occurred as a result of WMCMHS's contract with defendants. Not being parties to the contract between defendants and WMCMHS, however, plaintiffs have no rights under that contract and could not seek a declaratory ruling regarding the contract with the state at the Court of Claims. [*Mason Co v Dep't of Community Health*, 293 Mich App \_\_\_, \_\_\_ (2011), slip op at 5.]

The concern I have with this analysis is that plaintiffs *did* also bring this cause of action against DCH, and the issue decided by the circuit court was whether WMCMHS would be breaching its contract with DCH if it made the lease payments to plaintiffs. Thus, the action was (a) brought against a state department and (b) involved the interpretation of a state contract. In order to avoid raising unnecessary confusion concerning the exclusive jurisdiction of the Court of Claims, I would grant leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 3, 2012

*Corbin R. Davis*

Clerk